



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

McDougal
R76-360
BRUCE E. BABBITT
ATTORNEY GENERAL
76-260

August 6, 1976

Mr. Richard W. Koeb
Superintendent of Banks
State Banking Department
Room 101 Commerce Building
1601 West Jefferson
Phoenix, Arizona 85007

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Mr. Koeb:

You have inquired as to the propriety of using part of the funds appropriated to the Department under House Bill 2210 to pay certain operating expenses of the receivership of Heritage Trust Company. House Bill 2210, enacted by the Legislature as Chapter 32, Laws 1976, appropriates to the Department the sum of \$25,000 for the purpose of providing necessary professional and outside services "required in connection with the investigation of trust companies." With respect to such special appropriations, the Arizona Supreme Court has held that:

The funds there appropriated are clearly wedded to the use for which they are prescribed. Any other use would be improper.

Millett v. Frohmiller,
66 Ariz. 339, 188 P.2d 457 (1948).

Accordingly, it is our opinion that you cannot use any of the funds appropriated by Chapter 32 to pay operating expenses of the receivership of Heritage Trust Company.

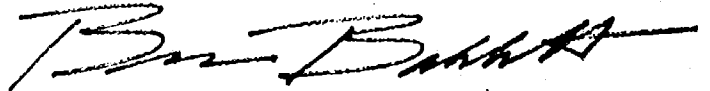
In order to resolve your current cash flow problems, you should consult with your court appointed attorneys. Perhaps they can pay the present expenses pending improvement of the receivership's cash position. In the future, I would suggest that you not make substantial payments to your court appointed attorneys,



Mr. Richard W. Koeb
August 6, 1976
Page two

as you did last month, or to any other creditors for that matter,
where the result would be to burden the receivership with a
serious cash flow problem.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Bruce Babbitt", with a long horizontal flourish extending to the right.

BRUCE E. BABBITT
Attorney General

BEB:b